

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. S-2526

**PETITION OF SPRINT PCS/APC REALTY AND EQUIPMENT COMPANY, LLC
AND WESLEY GROVE UNITED METHODIST CHURCH**

OPINION OF THE BOARD

(Hearing Date: October 11, 2002)

(Effective Date of Opinion: February 19th, 2003)

Case No. S-2526 is an application for a special exception pursuant to Section 59-G-2.43 (Public Utility Buildings, Public Utility Structures and Telecommunication Facilities) of the Zoning Ordinance to permit construction and operation of a telecommunications facility consisting of a 100-foot flagpole, with three (3) panel antennas inside the flagpole, six 3 foot x 3 foot x 6 foot equipment cabinets within a 45 foot x 45 foot compound, and screened by an 8-foot fence. Pursuant to the authority contained in Section 59-A-4.125 of the Montgomery County Code, the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to conduct the public hearing. The Hearing Examiner convened a public hearing on October 11, 2002, the record in the case closed on October 26, 2002, and on December 6, 2002, the Hearing Examiner issued a written Report and Recommendation.

The subject property is Parcels P760, P763, PL19352 and Parcel B, located at 23612 Woodfield Road, Gaithersburg, Maryland, in the RE-2 Zone.

Decision of the Board:	Special Exception granted, subject to conditions enumerated below.
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At its worksession on January 22, 2003, the Board of Appeals voted to adopt the Hearing Examiner's Report and Recommendation and grant the special exception subject to the following conditions:

1. Petitioner shall be bound by its testimony and exhibits of record, the testimony of its witnesses and representations of its attorney, to the extent that such evidence and

representations are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.

2. The monopole must be removed at the cost of the Petitioner when it is no longer used by a telecommunications carrier to provide service.

3. Approval of a Tree Protection Plan by Environmental Planning staff prior to release of sediment and erosion control or building permit, as appropriate. An MNCPPC inspector must be contacted for pre-construction inspection of tree protection measures and authorization to begin any tree clearing.

4. The flagpole must follow approved United States regulations governing the flying of the United States flag.

5. Lighting of the flagpole, as required by United States regulations, will consist of two ground-mounted narrow beam spotlights of not greater than 150 watts each.

6. Upon an assertion of objectionable glare from the illumination of the flagpole, the Board may convene a hearing to address possible detrimental effects of this non-inherent characteristic.

7. The special exception encumbers all three parcels which comprise the subject property.

On a motion by Donna L. Barron, seconded by Allison Ishihara Fultz, with Louise L. Mayer, Angelo M. Caputo, and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 19th day of February, 2003.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.